

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

UNITED STATES OF AMERICA §
§
V. § CRIMINAL NO. SA-19-CR-00804-FB
§
FELIPE JESUS DURON §

SENTENCING MEMORANDUM

FELIPE JESUS DURON, Defendant, files this Sentencing Memorandum for his sentencing hearing which is currently scheduled for May 18, 2021.

Personal Background

1. Felipe just turned 23 years of age. He has never been arrested before in his life. Yet his guideline range of imprisonment is life.
2. Felipe went to work at McCombs Ford West as soon as he graduated from high school and stayed there for three years until he decided to enroll in college on a full time basis at Incarnate Word University. Three letters have been provided from people he worked with stating that he was a conscientious, reliable and hard working employee. Up until the time of his arrest, he was going to school full time. He was a music major with the goal of becoming a teacher, and was doing very well in school.
3. Aside from school and work, he is devoutly religious and has been very active in various organizations and activities in the Catholic church. Many of his letters of reference attest to his devotion to his faith. He has a strong family relationship with his parents and his sister, all of whom have written letters on his behalf. He speaks with both his parents daily.
4. Felipe has experienced emotional trauma in his young life. He was molested when he was five years old on more than one occasion by a babysitter. He was the victim of bullying

frequently in school. When he was 16 years old, he witnessed his 9 and 12 year old niece and nephew severely injured by a drunk driver. Visions of seeing their lifeless bodies on the street that day still haunt him.

5. Just prior to the incidents which gave rise to this case, Felipe's parents went through a divorce. Being very close to both of them, he sunk further into depression and felt isolated. Just prior to his arrest, he had been seeing a mental health therapist for his continuing depression, anxiety and PTSD.

Application of Sentencing Guidelines

6. Felipe does not minimize the severity of this offense and the trauma it has caused to the victim. He accepts the penal consequences of his criminal behavior. However, life imprisonment for Felipe is simply too severe.

7. Punishment in federal court for child pornography and child abuse is understandably severe. Federal courts have recognized the sentencing guidelines for child pornography and related offenses often fail to distinguish between variations of severity of conduct. As a result, federal judges have frequently employed downward departures to mitigate what may be a disproportionately severe sentence.

8. Application of 18 U.S.C. § 3553 standards justifies a downward departure in this case, particularly because of the nature and circumstances of this offense and the history and circumstances of this defendant. The defendant is requesting a sentence of no more than 15 years imprisonment, which is the mandatory minimum for Count Two in the indictment. A sentence of 15 years reflects the serious of the offense, promotes respect for the law, provides just punishment for the offense, affords adequate deterrence to criminal conduct, and protects the public from further crimes of this defendant.

9. It is highly unlikely that Felipe will re-offend. The remorse he feels for what he did is undeniable. Although not an excuse for what he did, the conduct which he engaged in is far too available on the internet for someone with that type of ideation. Felipe's future conduct should be judged on what he has done in the non-virtual world, such as his work with the church and in school. The letter of reference written by a blind classmate of his is notable as an example of how he normally treats women.

10. It should also be noted that a sentence under 20 years will allow this defendant to obtain a lower security designation from the Bureau of Prisons and get a better placement, as well as being able to avail himself of the treatment programs he needs.

Defendant would request a downward departure from his current guideline imprisonment range and be assessed a sentence of 15 years.

Respectfully submitted,

/s/ Bernie Martinez

Bernie Martinez
Attorney at Law
State Bar No. 13141300
202 E. Houston St., #801
San Antonio, TX 78205
(210) 973-7539: telephone
bernie@berniemartinezlaw.com

ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I certify that on the 7th day of May, 2021, I electronically filed the foregoing Sentencing Memorandum with the Clerk of the Court using the CM/ECF system which will send notification to Bettina J. Richardson, Asst. United States Attorney.

/s/ Bernie Martinez
